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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,874	04/16/2001	Mark Vange	CIRC014	5573

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EXAMINER	
LEE, PHILIP C	

ART UNIT	PAPER NUMBER
2152	

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/835,874	VANGE ET AL.	
	Examiner	Art Unit	
	Philip C. Lee	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 April 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-13,15 and 17-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-6,11-13,15 and 17-25* is/are rejected.

7)☒ Claim(s) *7-10* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. This action is responsive to the amendment and remarks filed on April 18, 2006.

2. Claims 2-13, 15 and 17-25 are presented for examination.

3. The text of those sections of Title 35, U.S. code not included in this office action can be found in a prior office action.

4. Claims 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claim 10 is objected to because the claim is dependent on a canceled claim (claim 1).

Claim Rejections - 35 USC 102

6. Claims 2, 10-13, 17, and 20-22 rejected under 35 U.S.C. 102(e) as being anticipated by Wong (US 5,974,465).

7. Wong was cited in the previous office action.

8. As per claim 2, Wong discloses the invention as claimed including a method for

transmitting packets from a computer onto a network (Figs. 1 and 2), said method comprising the acts: receiving at least two data sets (col. 3, line 63-col. 4, line 3) (e.g. packets from PC101 and packets from PC 102);

determining a priority value for each of the at least two data sets based on priority information parsed from the received at least two data sets (col. 5, lines 27-30) (it is inherent that the information must be parsed);

composing a composite data set (209, fig. 2) comprising portions of the at Ieast two data sets such that an amount of data from each of the data sets within the composite data set is based upon the determined priority values (col. 5, lines 27-33; col. 4, line 45-col. 5, line 1) and wherein an order of the portions in the composite data set is selected based on the determined priority values (col. 5, lines 33-52; col. 4, lines 57-62) (i.e., Queue is FIFO, hence packets are transmitted based on the order that they are loaded into the queue and the packets are loaded into the queue based on priorities); and transmitting the composite data set onto the network (col. 5, lines 39-41), wherein the act of receiving comprises creating a group comprising a plurality of connection buffers for each data set (col. 4, lines 6-11); and assigning a priority to each created group (col. 4, lines 45-50).

9. As per claim 17, Wong discloses the invention as claimed including a system for transmitting packets from a buffer of a network computer onto a network (209, 105, Fig. 2), said system comprising: a buffer (209, fig. 2) to store a plurality of packets received from at Ieast one client (col. 4, lines 7-11); at Ieast two packets stored in the buffer, wherein each of the packets has a priority value that at Ieast partially determines a queue order for transmitting (col. 5, Iines

33-52; col. 4, lines 45-62) (i.e., Queue is FIFO, hence packets are transmitted based on the order that they are loaded into the queue and the packets are loaded into the queue based on priorities); and a transmitter to transmit prioritized packets from the buffer(col. 5, lines 39-41); wherein the buffer (209, fig. 2) is part of an intermediary web server (104, fig. 2) that receives packets from the at Ieast one client (col. 3, lines 59-62); and the network is the internet (col. 3, Iines 25-30).

10. As per claims 10 and 20, Wong discloses transmitting the prioritized packets to a second networked computer over the Internet (Figs. 1 and 2; col. 3, lines 61-64).

11. As per claim 11, Wong discloses receiving the prioritized packets from at least one client (101-103, Fig. 2; col. 3, lines 61-64).

12. As per claims 12 and 21, Wong discloses the prioritized packets are received by an originating server (104, Fig. 2; col. 3, lines 61-64).

13. As per claims 13 and 22, Wong discloses transmitting the prioritized packets to a second networked computer and receiving prioritized packets from the second networked computer (101-103, 108-110, Fig. 1; and Fig. 2; col. 3, lines 61-64).

Claim Rejections - 35 USC 103

14. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong in view of Lin et al. (US 6,405,256), hereinafter "Lin".

15. As per claim 3, Wong does not disclose monitoring the speed of the connection and adjusting the size of the buffer. Lin, on the other hand, monitoring the speed of the connection supplying data to each connection buffer (col. 9, lines 53-55; col. 8, lines 22-45); and adjusting the size of the corresponding connection buffer to maintain a buffer sized to hold packets received over a preselected time interval (col. 9, lines 57-58).

16. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wong and Lin because Lin's teaching of adjusting the size of the buffer would increase the flexibility of Wong's system by allowing the size of the buffer to increase in order to accommodate additional data segments received (col. 3, lines 8-19).

17. As per claim 4, Wong and Lin do not explicitly disclose the time interval is as least as long as the time required to complete the composing step. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include time interval is as least as long as the time required to complete the composing step because enough time must be included in order to store data in the queue of the buffer to create the data set.

18. Claims 5-6 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong in view of Robotham et al. (US 6,510,158), hereinafter "Robotham".

19. Robotham was cited in the previous office action.

20. As per claims 5 and 18, Wong does not disclose determining a weight value for each data set and selecting portions of the first and second data sets in an order at least partially based upon the weight value. Robotham, on the other hand, discloses determining a weight value for each data set (col. 4, lines 1-13)and selecting portions of the first and second data sets in an order at least partially based upon the weight value (col. 4, lines 1-13).

21. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wong and Robotham in order to enhance the priority queuing mechanism of Wong.

22. As per claims 6 and 19, Wong discloses creating a connection buffer for each data set (209, Fig. 2; col. 4, lines 6-11). However, Wong does not disclose organizing the connection buffers into Iogical rings of like priority value; selecting portions of data from each Iogical ring at a frequency at Ieast partially reflecting the relative priority of the Iogical rings. Robotham, on the other hand, discloses organizing the connection buffers into Iogical rings of like priority value (col. 3, lines 17-25; col. 4, lines 59-66); selecting portions of data from each Iogical ring at a frequency at least partially reflecting the relative priority of the Iogical rings (col. 6, lines 6-13 and 28-45) (note that each of the buffer and logical buffer can be established as ring buffer (col. 4, lines 64-66)).

23. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wong and Robotham in order to enhance the priority queuing mechanism of Wong.

24. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wong in view of McCloghrie et al. (US 6,386,052), hereinafter "McCloghrie".

25. McCloghrie was cited in the previous office action.

26. As per claim 15, Wong does not explicitly disclose receiving prioritization rules from an external content server associated with at least one of the data sets and determining the priority value at least partially based on the prioritization rules. McCloghrie , on the other hand, disclose s receiving prioritization rules from an external content server associated with at least one of the data sets and determining the priority value at least partially based on the prioritization rules (col. 16, lines 25-51).

27. It would have been obvious to one skilled in the art at the time of the invention to combine the teachings of Wong and McCloghrie in order to enhance the prioritizing mechanism of Wong and to determine packet priorities in accordance with the required service.

28. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Wong in view of Ganesh et al. (US 7,065,082), hereinafter "Ganesh".

29. As per claim 23, Wong discloses the invention substantially as claimed comprising: providing an intermediary server (104, Fig. 2) between the clients (col. 3, lines 59-62); receiving a data set from one of the clients (col. 3, line 63-col. 4, line 3); parsing the data set to retrieve priority information (col. 5, lines 27-30) (it is inherent that the information must be parsed); determining a priority value for the received data set (col. 5, lines 27-30); composing a composite data set (209, Fig. 2) including a portion of the received data set based on the priority value (col. 5, lines 27-33; col. 4, line 45-col. 5, line 1); and transmitting the composite data set to the destination over the network (col. 5, lines 39-41).

30. Wong does not explicitly disclose the destination is a web server, however, It would have been obvious to one skilled in the art at the time of the invention to include a web server as the destination because the selection of different destination may be considered a matter of application choice.

31. Wong does not disclose modifying the priority information from a first value to a second value. Ganesh, on the other hand, discloses modifying the priority information from a first value to a second value (col. 6, lines 14-17; col. 14, lines 60-62).

32. It would have been obvious to one skilled in the art at the time of the invention to combine the teachings of Wong and Ganesh because Ganesh's teaching of modifying the priority

information would increase the alertness of Wong's system by allowing processing of data based on its priority.

33. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wong and Ganesh in view of McCloghrie.

34. As per claim 24, Wong and Ganesh do not disclose the modifying is performed based on information accessed by the one of the clients on the web server. McCloghrie, on the other hand, disclose modifying is performed based on information accessed by the one of the clients on the web server (col. 16, lines 25-51).

35. It would have been obvious to one skilled in the art at the time of the invention to combine the teachings of Wong, Ganesh and McCloghrie in order to enhance the prioritizing mechanism of Wong and Ganesh and to determine packet priorities in accordance with the required service.

36. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wong and Ganesh in view of Muret et al. (US 2002/0042821), hereinafter "Muret"

37. As per claim 25, Wong and Ganesh do not disclose modifying is based on a number of page credits. Muret discloses modifying is based on a number of page credits (pageviews or

bytes) for a particular domain of the web server accessed by the one of the clients (parags. 265 and 277).

38. It would have been obvious to one skilled in the art at the time of the invention to combine the teachings of Wong, Ganesh and Muret in order to enhance the prioritizing mechanism of Wong and Ganesh and to determine priorities in accordance with the certain criteria.

39. Applicant's arguments with respect to claims 2-13, 15 and 17-25, filed 4/18/06, have been fully considered but are not deemed to be persuasive.

40. In the remark applicant argued that

(1) Wong fails to teach parsing priority information from a data set and then using this parsed information to determine a priority value.

(2) Wong fails to teach composite data set comprising portions of the at least two data sets.

(3) Wong fails to teach that the order of the portions of each data set is selected based on the determined priority values.

(4) Wong fails to teach that each packet in its buffers has a priority value and that this value is used to set the queue order for transmitting.

41. In response to point (1), Wong discloses priority of the outbound packet is assigned according to the application program which generated that particular packet (col. 4, lines 14-20). This means software module must parse the packet in order to determine which application program generated that packet or the priority of the packet (priority level).

42. In response to point (2), Wong discloses composite data set (queue, 209, Fig. 2) comprising some packets from at least PC 101 and PC 102 (col. 5, lines 27-33; col. 4, line 45-col. 5, line 1).

43. In response to points (3) and (4), Wong discloses the composite data set (queue, 209, Fig. 2) performs first-in-first-out (FIFO) operation. The packets are transmitted based on the order that they are loaded into the queue (col. 5, lines 27-33; col. 4, line 45-col. 5, line 1). The packets are loaded selected to be loaded into the queue based on priority of the packets (priority level). Hence, the order of the transmission are based on priority.

44. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

45. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action. Any inquiry concerning this communication or earlier communications form the examiner should be directed to Philip Lee whose telephone number is (571) 272-3967. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

Philip Lee

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SUPERVISORY PATENT EXAMINER